



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Vessel Entrance and Clearance Automation Test

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) will conduct the Vessel Entrance and Clearance Automation Test. This test will allow participants to submit certain vessel entry and clearance data and requests to CBP electronically through the Vessel Entrance and Clearance System (VECS), instead of submitting paper forms, as currently required by CBP regulations. Specifically, this test will allow participants to submit the data required on CBP Forms 26, 226, 1300, 1302, 1303, 1304, and 3171 electronically through VECS prior to arrival or departure from designated ports. This notice describes the test, sets forth the eligibility requirements for participation, and invites public comment on any aspect of the test.

DATES: The test will begin at the Port of Gulfport in Gulfport, Mississippi, no earlier than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] and will continue for 24 months from the date the test begins. During the 24 months, additional ports will be designated as test ports, and CBP will announce the additional ports participating in the test on its website. Comments concerning this notice and all aspects of the announced test may be submitted at any time during the test period.

ADDRESSES: Written comments concerning any aspect of the test should be submitted via email to Brian Sale, Branch Chief, Cargo and Conveyance Security, Manifest Conveyance and Security Division, Office of Field Operations, U.S. Customs and Border

Protection, at OFO-ManifestBranch@cbp.dhs.gov. In the subject line of the email, please write “Comments on Vessel Entrance and Clearance Automation Test.”

FOR FURTHER INFORMATION CONTACT: Brian Sale, Branch Chief, Cargo and Conveyance Security, Manifest Conveyance and Security Division, Office of Field Operations, U.S. Customs & Border Protection; OFO-ManifestBranch@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose of the Test

A. Purpose of the Test

U.S. Customs and Border Protection (CBP) regulations generally require that the master or vessel agent¹ of a commercial vessel submit certain arrival, entrance, and clearance data to CBP when traveling to and from U.S. ports of entry. *See* part 4 of title 19 of the Code of Federal Regulations (19 CFR part 4). The vessel agent must generally submit this data to CBP on paper forms. Some of the data collected through these forms is redundant or already available to CBP through other required data submission platforms, such as data required by the applicable U.S. Coast Guard (USCG) regulations. *See* 33 CFR 160.201-216.

Executive Order 13659, “Streamlining the Export/Import Process for America’s Businesses,” signed in February 2014, requires the U.S. Government to streamline the export/import process for America’s businesses by increasing efforts to improve technologies, policies, and other controls governing the movement of goods across U.S. borders. In support of this Executive Order, as well as in response to requests from the trade industry, CBP is developing a web-based system that will allow for the partial automation and electronic filing of many of its paper-based commercial vessel arrival,

¹ For the purposes of this document, “vessel agent” may include a vessel master or commanding officer, authorized agent, operator, owner, consignee, or a third party contracted by the owner or operator of the vessel to prepare and submit Entrance and Clearance documentation to CBP on behalf of the vessel owner or operator.

entrance, and clearance data collections. The Vessel Entrance and Clearance Automation Test (“the Test”) will allow CBP to test this system. The Test will also fulfill CBP’s aims to improve service delivery and customer experience, by reducing paperwork burdens and promoting greater efficiency with respect to the submission of vessel entry and clearance forms.

Specifically, the Test will allow participants to electronically submit to CBP, through the Vessel Entrance and Clearance System (VECS), when seeking to enter into or depart from a designated port, the entrance and clearance data that is currently collected on CBP Form 1300: Vessel Entrance or Clearance Statement; CBP Form 1302: Inward Cargo Declaration; CBP Form 1303: Ship’s Stores Declarations; CBP Form 1304: Crew’s Effects Declaration; CBP Form 3171: Application-Permit-Special-License-Unlading-Lading-Overtime Services; CBP Form 26: Report of Diversion; and CBP Form 226: Record of Vessel Foreign Repair or Equipment Purchase. The Test will also allow participants to make certain entry and clearance requests and reports. Additionally, the Test will allow vessel agents to submit required supporting documentation, such as vessel certificates, to CBP electronically. CBP will then use the data and documentation submitted through VECS to process vessel entrances and clearances electronically at designated ports.

VECS is intended to modernize the maritime commercial entry and clearance process upon the arrival and departure of a commercial vessel at U.S. ports by eliminating the need for vessel agents to fill out and submit data elements that are requested on more than one of these forms or through other required data submission methods, and instead consolidate the maritime entry and clearance process into an electronic submission to a single platform. All other CBP forms required for the entrance and clearance of a vessel (*e.g.*, CBP Form 1302A: Cargo Declaration Outward with

Commercial Forms; CBP Form I-418: Passenger List-Crew List;² and CBP Form 5129: Crew Member's Declaration) are not part of the Test and must continue to be submitted in accordance with the procedures outlined in the CBP regulations.

The current process for entering and clearing a commercial vessel generally involves the manual preparation and presentation of paper forms (originals and copies), even though in some cases, CBP regulations allow for electronic submissions. VECS will provide a web-based interface that can be accessed by both vessel agents and CBP on a mobile tablet or a standard desktop computer. It will pre-populate a number of data fields required on the aforementioned entry and clearance forms using information provided to CBP through other CBP databases. This method will enable the vessel agent to deploy a single transmission of data and effectively eliminate the need for duplicative data transmissions to CBP. Furthermore, this Test will decrease the time it takes for CBP Officers and the trade community to process an entrance and clearance of a commercial vessel.

B. Current Vessel Arrival, Entrance, and Clearance Processes and Requirements

The regulations outlining the requirements for vessel arrival, entrance, and clearance processes are in 19 CFR part 4. They are described below.

1. Requests for Preliminary Entry, Permits, and Special Licenses

Before a commercial vessel carrying imported merchandise, baggage, and/or passengers and required to make formal entry arrives at a U.S. port of entry, the vessel agent may apply for a CBP permit or special license for unlading and lading.

Alternatively, the vessel agent may make a preliminary entry before the vessel makes formal entry. *See* 19 CFR 4.8 and 4.30.

² As of February 28, 2022, CBP's amended regulations require vessel operators and vessel agents to submit the data elements required on CBP Form I-418 electronically via the U.S. Coast Guard's electronic Notice of Arrival/Departure (eNOA/D) system. *See* 86 FR 73618.

Vessel operators or agents seeking preliminary entry in advance of arrival must submit the electronic equivalent of a complete CBP Form 1302 through the CBP Automated Manifest System (AMS) under current established regulations, standards and practices and must also submit CBP Form 3171 (Application-Permit-Special License-Unlading-Lading-Overtime Services) to CBP electronically no less than 48 hours prior to the vessel's arrival. *See* 19 CFR 4.7(b)(2) and (b)(4); 19 CFR 4.8. Vessel agents typically submit CBP Form 3171 via paper, fax, or email. The submission of CBP Form 3171 also serves as notice of a vessel's intended date of arrival, and CBP uses the submitted CBP Form 3171 for vessel tracking and scheduling. If the intended date of arrival changes, the vessel agent must notify CBP of the new arrival time.

Except under certain circumstances,³ vessels arriving directly or indirectly from any port or place outside the customs territory of the United States,⁴ including the adjacent waters, or from a vessel which transits the Panama Canal, may not unlade passengers, cargo, baggage, or other articles until the port director issues a permit or special license for such unlading. 19 CFR 4.30(a). Similarly, until the port director has issued a permit or special license to the vessel operator on CBP Form 3171 or through a CBP-approved electronic data interchange system, cargo, baggage, or other articles may not be laden on a vessel destined to a port or place outside the customs territory of the United States, including the adjacent waters, if Customs supervision of such lading is required. 19 CFR 4.30(a).

Instead of applying for routine permits and special licenses to unlade/lade each time a vessel enters a U.S. port, vessel agents can request a term permit from CBP which allows them to immediately unlade/lade merchandise, baggage, and/or passengers prior to

³ Excepted circumstances are enumerated in 19 CFR 4.30(f), (g), and (k), as well as 19 CFR 123.8. Additionally, the exception also applies in the case of vessels exempt from entry or clearance fees under 19 U.S.C. 288.

⁴ "Customs territory of the United States" includes only the States, District of Columbia, and Puerto Rico. 19 CFR 101.1.

entry. With a term permit, vessel operators can immediately unlade/lade merchandise, baggage, and/or passengers for all arrivals and entrances at a particular port of entry within a specific, though extendable, time period without the submission of CBP Form 3171 at each arrival. Vessel agents can apply for a term permit to immediately unlade/lade at a particular port of entry by submitting CBP Form 3171 with a continuous bond to the CBP port director via fax, email, or in person. If granted by CBP, the term permit remains in effect until revoked by the port director or automatically cancelled by termination of the supporting continuous bond.⁵ Because vessel agents with term permits do not have to submit CBP Form 3171 for each arrival and entrance, they must report their intended date of arrival to CBP for vessel tracking and scheduling. *See generally* 19 CFR 4.30.

In recent years, CBP has limited advance unlading privileges to members of the Customs Trade Partnership Against Terrorism (CTPAT) program.⁶ Members of CTPAT may request the privilege of using the Advanced Qualified Unlading Approval Program (AQUA Lane), which allows them, if approved, to commence cargo operations immediately upon arrival rather than having to wait for the vessel to be boarded and cleared by CBP Officers. To obtain this benefit, the CTPAT member's agent must request the privilege at least 24 hours prior to the arrival of the vessel by submitting CBP Form 3171 to CBP.

2. Report of Arrival

Pursuant to 19 CFR 4.2, when a vessel from a foreign port or place, any foreign vessel from a port or place within the United States, or any vessel of the United States

⁵ *See* 19 CFR 4.30.

⁶ CTPAT is a voluntary public-private sector partnership program which recognizes that CBP can provide the highest level of cargo security only through close cooperation with the principal stakeholders of the international supply chain, including vessel operators and vessel agents. The Security and Accountability for Every Port Act of 2006 (SAFE Act) provided a statutory framework for the CTPAT program and imposed strict program oversight requirements. For more information, visit <https://www.cbp.gov/border-security/ports-entry/cargo-security/CTPAT>.

carrying foreign merchandise for which entry has not been made, arrives at a U.S. port, the vessel agent must immediately report that arrival to the nearest CBP facility or other location designated by the port director. Generally, the report of arrival may be made by any means of communication to the port director or to a CBP Officer assigned to board the vessel.

3. *Entry*

For vessels required to make formal entry, the vessel agent must, within 48 hours of arrival, generally submit the original vessel manifest, along with one copy, to CBP at the customhouse. *See* 19 CFR 4.3 and 4.7. The manifest consists of the following CBP forms: CBP Form 1300: Vessel Entrance or Clearance Statement (for Entrance); CBP Form 1302: Cargo Declaration; CBP Form 1303: Ship's Stores Declaration; CBP Form 1304: Crew's Effects Declaration; CBP Form I-418 (Passenger List-Crew List); and under some circumstances, CBP Form 5129, Crew Member's Declaration. *See* 19 CFR 4.7 and 4.9; 19 U.S.C. 1434.

For U.S. vessels documented for foreign or coastwise trade, as well as foreign vessels that intend to engage in foreign and coastwise trade under CBP regulations, the vessel agent must also include a foreign repairs declaration on CBP Form 226: Record of Vessel Foreign Repair or Equipment Purchase when it first arrives in the United States following a foreign voyage. *See* 19 CFR 4.14. If the agent declares that foreign repairs were done, the agent must also complete the vessel repair entry section of CBP Form 226. For foreign vessels, the vessel agent must show the vessel's document to the port director on or before the entry of the vessel. *See* 19 CFR 4.9. Along with the vessel manifest, a vessel agent making formal entry must also present any vessel certificates, such as the Certificate of Financial Responsibility (Passenger Transportation Indemnification), Load Line Certificate, and term permit to CBP. *See, e.g.,* 19 CFR 4.65 – 4.66c.

4. *Manifests: Inward Foreign; Traveling; Abstract*

Pursuant to 19 CFR 4.7, the master of every vessel arriving in the United States who is required to make formal entry must have a manifest on board the vessel. As discussed in the prior section, the manifest consists of CBP Forms 1300, 1302, 1303, 1304, I-418, and under some circumstances CBP Form 5129. 19 CFR 4.7(a). The original manifest, known as the “inward foreign manifest” and one copy must be presented to the CBP Officer who first demands it.⁷ 19 CFR 4.7(b)(1).

If the vessel will proceed from the port of arrival to other U.S. ports with residue foreign cargo or passengers, the master of the vessel must provide an additional copy of the manifest for certification as a “traveling manifest.” 19 CFR 4.7(b)(1) and 4.85. At each subsequent U.S. port the vessel travels to with inward foreign cargo or passengers still on board, the vessel agent must present the traveling manifest. The vessel agent must also present an “abstract manifest” for any cargo or passengers to be discharged at that port. 19 CFR 4.85(c).

5. *Clearance: Foreign and Permit to Proceed Coastwise*

To depart from a U.S. port or place, vessels must generally apply for clearance from CBP.⁸ 19 CFR 4.60-4.61, 4.81. When the vessel’s next intended destination is a foreign port or place, vessel agents must apply for foreign clearance by submitting CBP Form 1300 (Clearance Statement), executed by the vessel master or other proper officer, to CBP at the customhouse. 19 CFR 4.61(a). The vessel agent must also file CBP Form

⁷ The vessel agent must submit a CBP-approved electronic equivalent of the vessel’s Cargo Declaration (CBP Form 1302), 24 hours before the cargo is laden aboard the vessel at the foreign port. 19 CFR 4.7(a)(2). The electronic cargo declaration information must be transmitted through the CBP Automated Manifest System (AMS), or any electronic data interchange system approved by CBP to replace the AMS system for this purpose. *See* 19 CFR 4.7(b)(2).

⁸ Some vessels are exempt from CBP’s clearance requirements. *See* 19 CFR 4.60 and 4.61 for a list of vessels required to obtain clearance from CBP; *see also* 19 CFR 4.81(a) for additional exceptions to the general requirement that vessels request and receive permission to depart from a U.S. port.

1302A with the appropriate CBP Officer at the U.S. port from which clearance is being sought. 19 CFR 4.63(a). CBP will grant clearance either on the paper forms or by approved electronic means. 19 CFR 4.61(a).

When a foreign vessel's next intended destination is another U.S. port or place, the vessel agent must apply for a permit to proceed coastwise, by filing two copies of CBP Form 1300 with CBP. 19 CFR 4.81(e); *see also* 19 CFR 4.85. Unless the vessel is proceeding in ballast, the vessel agent must also file three copies of the Cargo Declaration with the port director for the port from which the vessel seeks to depart. 19 CFR 4.81(e).

Additionally, before any vessel may proceed from one domestic port to another with cargo or passengers on board, the vessel agent must present CBP Form 1300, in triplicate, to the director of the port from which the vessel seeks to depart. 19 CFR 4.85(b)(1).

6. Report of Diversion

When a vessel that has been cleared by a U.S. port to depart to a foreign port and, while enroute, is diverted to a U.S. port other than the one where it was cleared, the vessel agent must immediately notify the port that granted the last clearance of the vessel's diversion. 19 CFR 4.91(b). The vessel agent must also file a report of diversion on CBP Form 26 with the port that granted the last clearance. The same process applies to vessels that have received a permit to proceed coastwise. If such a vessel is diverted, the vessel agent must immediately give notice of the diversion to the port director who granted the permit to proceed. 19 CFR 4.91(a). Again, the vessel operator must also file a report of diversion on CBP Form 26 with that port.

II. Description of the Vessel Entrance and Clearance Automation Test

A. Vessel Entrance and Clearance Data Submissions through VECS

The Test will assess the functionality of submitting certain vessel entrance and clearance data elements to CBP electronically through VECS, a web-based program that allows for the automation and electronic submission of many paper-based commercial vessel entrance and clearance CBP data collections. The Test will allow vessel agents to submit the data requested on certain forms to CBP through VECS, instead of completing and submitting multiple paper forms.

Specifically, the Test will allow participants entering, or departing from, designated ports to submit electronically the entrance and clearance data that CBP currently collects primarily by paper on CBP Forms 1300, 1302, 1303, 1304, 3171, 26, 226. Many of these forms require data elements that are requested on more than one of the forms or through other related data submission requirements. In addition, several of the forms must currently be submitted on multiple occasions (*e.g.*, a new CBP Form 1300 must be submitted every time a subject vessel enters or departs a U.S. port of entry) and/or must be provided in duplicate or triplicate.

VECS will prepopulate certain vessel arrival, entrance, and clearance information that Test participants have previously submitted to CBP through other maritime requirements, such as USCG's electronic Notice of Arrival/Departure (eNOA/D) submission. *See* 33 CFR 160.201-216. VECS will then prompt participants to enter additional data elements required by the forms manually. The Test will streamline information collection by asking for data elements only once, even when a particular element is needed to satisfy the requirements of multiple different CBP forms. The participant must verify that the information that has been pre-populated into VECS is accurate, correct any inaccurate or incomplete data fields, supply any additional information necessary, and confirm and submit the data to CBP.

1. *Requests for Preliminary Entry, Permits, and Special Licenses*

Test participants intending to arrive at one of the participating ports may make a request for preliminary entry, permits, special licenses, or AQUA Lane privileges through VECS, instead of faxing or emailing CBP Form 3171 to the port. The submission of these requests will be made on the “Arrival Report” page of the VECS website. This submission will serve as the vessel’s advance notice of arrival to the intended port and must be submitted to CBP at least 48 hours prior to arrival.

In the VECS platform, the vessel agent will be able to request services for lading, unloading, and overtime. Additionally, participants may request the following special permits: (1) Request to unlade cargo at other than the original port of destination; (2) Request to discharge malfunctioning container; (3) Request to re-lade cargo that was prematurely landed by previous importing vessel through error or emergency; (4) Request to lade empty containers or stevedoring equipment; (5) Request to lade cargo for return to original vessel for cargo not landed at its destination and overcarried through error or emergency; (6) Request to retain cargo on board, due to emergent situation (i.e. port closure), for later return to the United States; (7) Request to retain cargo on board, due to denied entry of cargo at foreign port, for later return to the United States; (8) Request to retain cargo inaccessibly stowed upon arrival at destination, and carried forward to another domestic port or ports, and returned to the port of destination; and (9) Request to retain or unlade cargo not landed at its destination and overcarried to another domestic port through error or emergency.

2. Report of Arrival

While participating in the Test, vessel agents will report a vessel’s arrival to the nearest CBP facility or other location designated by the port director immediately via VECS. Thereafter, the vessel’s arrival information will be available to CBP through the vessel agent’s VECS submissions.

3. Entry

For vessels required to make a formal entry, participants in the Test must, within 48 hours of arrival at a designated port, submit to CBP, via VECS, the data elements required on CBP Form 1300, CBP Form 1302, CBP Form 1303, and CBP Form 1304. Test participants will first log into their Vessel Agency Portal Accounts in ACE, click the “Launch VECS” button, and then submit this information via the “Entrance” page of the VECS website. By submitting this data to CBP through VECS, participants in the Test will not need to bring the manifest to CBP at the customhouse.

For vessels subject to the requirements of 19 CFR 4.14 (addressing equipment purchases for, and repairs to, U.S. vessels), the vessel agent must also submit a declaration regarding foreign repairs through VECS, consistent with the declaration portion of CBP Form 226. If an agent declares in VECS that a U.S. vessel had undergone foreign repairs, VECS will send a notification to the Vessel Repair Unit and the vessel agent must then follow standard entry procedures.

For foreign vessels, a vessel agent may submit entry data to CBP via VECS, but the vessel agent must also bring the vessel’s documents to the port director on or before the entry of the vessel at its port of first arrival for CBP validation.⁹ The vessel agent may upload a valid vessel certificate into VECS using the Document Imaging System (DIS) and subsequently present the vessel’s document to CBP. A CBP Officer will examine the document and verify that the copy uploaded to VECS is accurate. The verified electronic copy will be valid for entry at subsequent participating ports for one year or until the Test ends, whichever is sooner.

A vessel agent may also upload other supporting documentation into VECS through DIS for future electronic validation. If CBP needs to review any documentation

⁹ These documents are: (1) Certificate Name; (2) Safety Construction Certificate; (3) Safety Equipment Certificate; (4) Radio Certificate; (5) Dangerous Goods Compliance; (6) Ship Security; (7) Safety Management Certificate; (8) Load Line Certificate; (9) Registry/Certificate of Nationality; (10) Tonnage Certificate; (11) Certificate of Financial Responsibility; (12) Continuous Synopsis Record; (13) Certificate of Financial Responsibility (Passenger Transportation Indemnification); (14) Certificate of Documentation; and (15) Bareboat Charter/Bridge Letter.

in person, it may require vessel operators to travel to or from the customhouse to provide such documentation.

A CBP Officer at a designated port of arrival will use a vessel agent's VECS submission to review and process the vessel's arrival or entrance electronically. If there are no issues with the arrival or entrance data submissions, the CBP Officer will then certify the vessel's entry application electronically,¹⁰ verify fees or taxes collected by CBP, and grant arrival or formal entry to the vessel, all through the VECS interface.

4. Manifests: Inward Foreign; Traveling; Abstract

As previously discussed, a manifest consists of CBP Forms 1300, 1302, 1303, 1304, I-418, and under some circumstances 5129. 19 CFR 4.7(a). Through VECS, numerous data elements requested on CBP Forms 1300, 1302, 1303, and 1304 will be auto-populated into the "Manifest" screen, using data submitted by the vessel operator to the USCG through the eNOA/D system. *See* 33 CFR 160.201-216. Through an information-sharing agreement between the two agencies, USCG sends to CBP this data soon after the vessel operator or vessel agent submits the same data to eNOA/D system. As part of this Test, participants must verify that the information that has been auto-populated into VECS is accurate, correct any inaccurate or incomplete data fields, supply any additional information necessary, and confirm and submit the data to CBP.

While the Test will be evaluating CBP's capacity to automate CBP Forms 1300, 1302, 1303, 1304, 3171, 26 and 226 through VECS, the Test will not include the automated or electronic collection of information on CBP Forms I-418 or 5129. CBP currently requires vessel operators or vessel agents to submit the data required on CBP

¹⁰ Vessel operators will have the ability to print and save PDF copies of vessel manifest forms and will have access to the form data submitted through their VECS accounts. Vessel operators traveling coastwise to other U.S. ports of entry and who are required to make formal entry must have a traveling manifest for their future coastwise arrivals.

Form I-418 electronically through the eNOA/D system. *See* 19 CFR 4.7(a). CBP intends for the CBP Form I-418 data that is electronically submitted through the eNOA/D system and then sent to CBP to instead be transmitted directly to VECS at a future date. CBP Form 5129 is generally optional for manifest purposes. The information collected on CBP Form 5129 is largely duplicative of the information collected on CBP Form 1304.

5. Clearance: Foreign Clearance and Permit to Proceed Coastwise

As discussed above, when a vessel seeks to depart from a U.S. port or place, the vessel agent must request clearance from CBP. 19 CFR 4.60. Whether seeking clearance to a foreign port or a permit to proceed coastwise the vessel agent must submit the request for departure on a CBP Form 1300 (Clearance Statement).

Test participants may request clearance from designated ports by submitting the necessary information on the “Clearance” page of the VECS website. Most of the data elements requested will be auto-populated because of the vessel’s earlier entry submission. However, some data elements will still need to be entered manually during the Test. Participants must verify that the information that has been auto-populated into VECS is accurate, correct any inaccurate or incomplete data fields, supply any additional information necessary, and confirm and submit the data to CBP.

The requirement to file three copies of the Cargo Declaration with the port director at the U.S. port where the vessel is seeking to depart from will be waived for vessels requesting a permit to proceed coastwise that are not proceeding in ballast. *See* 19 CFR 4.81(e). If a vessel requests foreign clearance, the vessel agent must affirm that CBP Form 1302A or its electronic equivalent has been filed with the appropriate CBP Officer at the port from which clearance is being sought. Through the Test, after a CBP Officer has reviewed and approved the vessel agent’s request for clearance and associated forms, the CBP Officer must notify the vessel agent through VECS that the vessel has been cleared to depart.

While Test participants will not be required to submit a paper CBP Form 1300, it is important to highlight that foreign governments may not accept the electronic foreign clearance notification that CBP will send to participants through VECS. Accordingly, Test participants seeking foreign clearance from one of the designated ports may also submit a paper CBP Form 1300. Alternatively, during the Test, CBP will also accept submissions of CBP Form 1300 via fax or as an email attachment from participants. For fax or email submissions, CBP will respond in the same manner.

6. Report of Diversion

Throughout the Test, if a vessel that has been cleared for departure from a participating port through VECS is diverted while enroute to a U.S. port other than that from which it was cleared, the vessel agent must, as soon as reasonably possible, log into VECS and submit information regarding the diversion on the “Report of Diversion” page. Upon approval, CBP will notify the vessel agent through VECS, and the vessel will be authorized to proceed to the new destination.

7. Supplemental Documents

Through VECS, participants will have the ability to upload vessel documents into the CBP Document Imaging System (DIS). After a vessel agent uploads a document into the DIS, the vessel agent must present the original document to CBP. A CBP Officer will then confirm that the original document matches the one uploaded to DIS. Once a vessel document is uploaded into DIS and verified by CBP, CBP Officers at participating ports will be able to use the electronic copies of vessel documents at the time of entrance and clearance. Afterwards, CBP will no longer need the original documents to be presented again at a participating port during the course of the Test, until the Test is completed or the document is no longer valid or associated with the vessel (for example, in the case of an expired vessel document/registry or a vessel name change). Supplemental document submission through VECS/DIS is voluntary during the Test, but participants are strongly

encouraged to participate in this aspect of the Test in order to take full advantage of the automation opportunities provided by VECS.

The following documents are eligible for submission to CBP through VECS/DIS during the Test: (1) Certificate Name; (2) Safety Construction Certificate; (3) Safety Equipment Certificate; (4) Radio Certificate; (5) Dangerous Goods Compliance; (6) Ship Security; (7) Safety Management Certificate; (8) Load Line Certificate; (9) Registry/Certificate of Nationality; (10) Tonnage Certificate; (11) Certificate of Financial Responsibility; (12) Continuous Synopsis Record; (13) Certificate of Financial Responsibility (Passenger Transportation Indemnification); (14) Certificate of Documentation; and (15) Bareboat Charter/Bridge Letter.

B. Eligibility for Participation

Any commercial vessel agent or other entity responsible for the filing of vessel entry and clearance forms at designated ports of entry may participate in the Test, as long as it meets the requirements outlined below. The ports designated for participation in this Test are listed in section II.G.

All participants must have a Vessel Agency Portal Account in ACE, along with the technical capability to electronically submit data to CBP, as well as receive responses from CBP. The Vessel Agency Portal Account in ACE will serve as access for Test participants to the VECS platform. For more information and for instructions on how to request an ACE Vessel Agency Portal Account, please visit

<http://www.cbp.gov/trade/automated/getting-started/using-ace-secure-data-portal>.

Additionally, Test participants will be required to provide a Type 3 Bond for each VECS filing with CBP. They also must have a valid U.S. address that is not a Post Office Box.

Test participants must agree to participate in any teleconferences or meetings established by CBP, when necessary. CBP may hold these teleconferences or meetings, as needed, for Test participants to ensure that any challenges or operational or technical

issues regarding the Test are properly communicated and addressed. Lastly, each Test participant will be held accountable for the accuracy of the information submitted to CBP through VECS, as the participant would be for submitting the same information to CBP through the regular vessel entry and clearance process. *See* 19 CFR 4.3a.

C. Application Process and Acceptance

Commercial vessel agents and other entities interested in participating in the Test should first request and create an ACE Vessel Agency Account via <http://www.cbp.gov/trade/automated/getting-started/using-ace-secure-data-portal>. Once an ACE Vessel Agency Account is created, CBP will contact the vessel operator or vessel agent to provide training on VECS and instructions on how to properly submit the required data. Training for VECS is expected to take one to two hours. Once the training has been completed, a CBP Officer at the designated Test port will inform the Manifest and Conveyance Security Branch of the Office of Field Operations in CBP Headquarters to allow access to VECS for the Test participant. The vessel operator or vessel agent can then begin to submit all relevant data electronically. Vessel operators or vessel agents that complete the training will also receive training materials from CBP on VECS so that they, in turn, can train other employees of their respective vessel agency.

CBP will continue to provide technical and operational assistance to Test participants throughout the Test.

D. Waiver of Certain Regulatory Requirements

For purposes of the Test, the requirement to file paper CBP Forms 3171, 1300, 1302, 1303, 1304, 26, and 226 as provided for in 19 CFR part 4, will be waived for Test participants seeking entry into or clearance out of one of the designated ports when they submit the applicable data elements from these forms into VECS, as described above. All other CBP forms required for the entrance and clearance of a vessel (*e.g.*, CBP Form 1302A: Cargo Declaration Outward with Commercial Forms; CBP Form I-418:

Passenger List-Crew List; and CBP Form 5129: Crew Member's Declaration) must continue to be submitted in accordance with the procedures outlined in the CBP regulations. 19 CFR 4.7, 4.7a, and 4.7b.

As discussed in section II.A.5, while participants in this Test will not be required to submit a paper CBP Form 1300 to CBP during the Test, CBP notes that foreign governments may not accept the electronic foreign clearance notification that CBP will send out to participants through VECS. Accordingly, participants seeking foreign clearance from one of the designated ports during this Test may also submit a paper CBP Form 1300. Alternatively, during the Test, CBP will also accept submissions of CBP Form 1300 by fax or as an email attachment from Test participants. For fax or email submissions, CBP will respond in the same manner.

Participation in the Test does not affect a participant's obligations to comply with any other applicable statutory and regulatory requirements. Participants will therefore still be subject to the relevant penalties for non-compliance. Additionally, submission of data under the Test does not exempt the participant from any CBP or other U.S. Government agency program requirements. Further, participation in the Test does not exempt participants from any statutory sanctions if a violation of U.S. laws is discovered within a shipment or container presented for entrance or clearance.

E. Costs to Test Participants

Test participants are responsible for all costs incurred as a result of their participation in the Test. The costs of participation will vary, depending on participants' current operations. Prospective Test participants will incur application time burdens, along with participation costs. These could include costs to: create and maintain a VECS profile; possess a type 3 bond; maintain a valid U.S. address; and adapt to and use the Test process. Such costs may be offset by a significant reduction in the expenses associated with printing, processing, and presenting paper forms and supporting

documents to CBP. Participants are encouraged to keep track of the costs incurred by their participation in the Test.

F. Benefits to Test Participants

While the benefits of the Test will vary by participant, several advantages of participating will include: the reduction in costs associated with the elimination of paper form printing, processing, and presentation; added time savings from eliminating the need to provide duplicative data on multiple forms; and greater transparency, flexibility, and communication with CBP during the vessel entrance and clearance process. The Test will also offer participants opportunities to help CBP establish, evaluate, and refine its electronic vessel entrance and clearance system and facilitate the future of implementing mandatory electronic vessel entrance and clearance information submission requirements. Participants are encouraged to keep track of the benefits experienced by their participation in the Test.

G. Designated Ports; Duration, Scope, and Evaluation of the Vessel

Entrance and Clearance Forms Automation Test

1. Designated Ports

The Test will initially operate at the Port of Gulfport in Gulfport, Mississippi. CBP later intends to roll out the Test at the following designated ports: Mobile, AL; Los Angeles-Long Beach, CA; Port Hueneme, CA; Jacksonville, FL; Port Everglades, FL; Savannah, GA; Baton Rouge, LA; Gramercy, LA; Lake Charles, LA; and New Orleans, LA. CBP will notify participants of the Test expansion at the above-designated ports, as well as the designation of additional ports for Test expansion after publication of this document, via the Vessel Entrance and Clearance System page on CBP's website, available at www.cbp.gov/trade/automated/vessel-entrance-and-clearance-system-vecs.

2. *Duration, Scope, and Evaluation of the Test*

The Test will begin no earlier than [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*] and will continue for 24 months from the date the Test begins.

Throughout the Test, CBP will evaluate the results and determine if the Test should be expanded to additional ports beyond those designated above, be extended for an additional period of time, or be expanded to include additional maritime forms. CBP will take into consideration any comments or feedback that is received from Test participants. Any expansion or extension of the Test will be announced in the *Federal Register*.

CBP will begin rulemaking to require the submission of most vessel entry and clearance data to CBP electronically through VECS for all mandated vessels seeking entry into or clearance from U.S. ports after sufficient Test analysis and evaluation is conducted.

H. Misconduct Under the Test

If a Test participant fails to abide by the rules, procedures, or terms and conditions of this and all other applicable *Federal Register* notices, fails to exercise appropriate level of care in the execution of Test participant obligations, or otherwise fails to comply with all applicable laws and regulations, the participant may be suspended from participation in this Test and may also be subject to civil or criminal penalties, liquidated damages, and other applicable enforcement action. Additionally, CBP may suspend a Test participant if it determines that an unacceptable compliance risk exists.

If CBP determines that a suspension is warranted, CBP will notify the participant of this decision, set forth the facts or conduct warranting suspension, and provide the date when the suspension is effective. In the case of willful misconduct or where public health interests or safety are concerned, the suspension may be effective immediately.

This decision may be appealed in writing to the Executive Assistant Commissioner, Office of Field Operations, within 15 days of notification. The appeal should address the facts or conduct charges contained in the notice and state how the participant has or will achieve compliance. CBP will notify the participant within 30 days of receipt of an appeal whether the appeal is granted or denied. If a Test participant has already been suspended, CBP will notify the participant if and when his or her participation in the Test will be reinstated.

III. Authority

This Test is being conducted in accordance with 19 CFR § 101.9(a) of the CBP regulations, which authorizes the Commissioner to impose requirements different from those specified in the CBP regulations for the purposes of conducting a test program or procedure designed to evaluate the effectiveness of new technology or operational procedures regarding the processing of passengers, vessels, or merchandise.

IV. Privacy

CBP will ensure that all Privacy Act requirements and applicable policies are adhered to during the implementation of this Test.

V. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3507(d)) requires that CBP consider the impact of paperwork and other information collection burdens imposed on the public. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

This Test does not impose any new information collection requirements; it simply changes the modality through which currently collected information is submitted to CBP. The Vessel Entrance and Clearance Statement (CBP Form 1300) (VECS) has been approved by the Office of Management and Budget (OMB) in accordance with the

requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under OMB control number 1651-0019. In addition, the following collections of information have been submitted to OMB for review and approval in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507): 1651-0025 Report of Diversion (CBP Form 26), 1651-0027 Record of Vessel Foreign Repair or Equipment (CBP Form 226), 1651-0001 Cargo Manifest/Declaration, Stow Plan, Container Status Messages and Importer Security Filing (CBP Form 1302), 1651-0018 Ships Stores Declaration (CBP Form 1303), 1651-0020 Crew Effects Declaration (CBP Form 1304), 1651-0005 Application-Permit-Special License Unlading/Lading, Overtime Services (CBP Form 3171).

Pete Flores,
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Office of Field Operations.

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